

1 **CRIMINAL PROCEDURE AMENDMENT**

2 2006 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Scott L Wyatt**

5 Senate Sponsor: David L. Thomas

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7 **LONG TITLE**

8 **General Description:**

9 This bill amends the Code of Criminal Procedure regarding the scope of appeals that  
10 may be made by the prosecution.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ allows the prosecution to appeal from a court's pretrial order dismissing a  
14 misdemeanor charge on specified grounds, so that the appeal authority is the same  
15 as is currently provided regarding felonies.

16 **Monies Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **77-18a-1**, as last amended by Chapter 106, Laws of Utah 2005

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24 *Be it enacted by the Legislature of the state of Utah:*

25 Section 1. Section **77-18a-1** is amended to read:

26 **77-18a-1. Appeals -- When proper.**

27 (1) A defendant may, as a matter of right, appeal from:



- 28 (a) a final judgment of conviction, whether by verdict or plea;
- 29 (b) an order made after judgment that affects the substantial rights of the defendant;
- 30 (c) an order adjudicating the defendant's competency to proceed further in a pending
- 31 prosecution; or
- 32 (d) an order denying bail, as provided in Subsection 77-20-1(7).
- 33 (2) In addition to any appeal permitted by Subsection (1), a defendant may seek
- 34 discretionary appellate review of any interlocutory order.
- 35 (3) The prosecution may, as a matter of right, appeal from:
- 36 (a) a final judgment of dismissal, including a dismissal of a felony information
- 37 following a refusal to bind the defendant over for trial;
- 38 (b) a pretrial order dismissing a [felony] charge on the ground that the court's
- 39 suppression of evidence has substantially impaired the prosecution's case;
- 40 (c) an order granting a motion to withdraw a plea of guilty or no contest;
- 41 (d) an order arresting judgment or granting a motion for merger;
- 42 (e) an order terminating the prosecution because of a finding of double jeopardy or
- 43 denial of a speedy trial;
- 44 (f) an order holding a statute or any part of it invalid;
- 45 (g) an order adjudicating the defendant's competency to proceed further in a pending
- 46 prosecution;
- 47 (h) an order finding, pursuant to Title 77, Chapter 19, Part 2, Competency for
- 48 Execution, that an inmate sentenced to death is incompetent to be executed;
- 49 (i) an order reducing the degree of offense pursuant to Section 76-3-402; or
- 50 (j) an illegal sentence.
- 51 (4) In addition to any appeal permitted by Subsection (3), the prosecution may seek
- 52 discretionary appellate review of any interlocutory order entered before jeopardy attaches.

**Legislative Review Note**

as of 1-25-06 5:30 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**